

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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)	
UNITED STATES OF AMERICA)	
)	
v.)	No. 16-cr-10094-LTS
)	
ROSS MCLELLAN)	
Defendant)	
)	
)	

RESPONSE TO GOVERNMENT OBJECTIONS TO DEFENSE EXHIBITS

Now comes the defendant Ross McLellan, by and through undersigned counsel, and hereby respectfully submits the following responses to the Government's objections to defense exhibits, Dkt. 454:

<u>Exhibit #</u>	<u>Admissibility</u>
708	Business record and is admissible under Fed. R. Evid. 803(17)
1063	Not offered for truth of any matters asserted, but just to show fact that alleged victim solicited future business with State Street This email also shows alleged victim's knowledge that remuneration is built into spread.
1129	Not offered for truth of any matters asserted, but just to show fact of soliciting future business with State Street and the clients' ability to negotiate Transition Management Agreement terms.
530	Business records
532	Admissible under Fed. R. Evid. 803(3) as contemporaneous reflection of state of mind. Mr. McLellan believed that the new FedEx business was due in part to prior concession by State Street.
533	Mere fact of communication, where Mr. McLellan informs Mr. Woodard of interactions with Mr. Pennings, is relevant.
534	Mere fact of communication, openly reporting on KIA to high-level executives, is relevant.
535	Mere fact of communication is relevant to explain Mr. McLellan's subsequent desire not to share info with Samina Vernon. This belief doesn't depend on truth of Mr. Penning's statement.
537	Mere fact of Ross not giving in to EP's demands is relevant without regard to truth of any matters asserted.

538	Mere fact of communication, Mr. McLellan joking about Mr. Pennings with Mr. Smit, undercuts the allegation of conspiracy.
540	Mere fact of communication, which relates to transparently reporting revenues internally, is relevant.
541	Mere fact of Mr. McLellan's willingness to reimburse for loss is relevant to counter Government's arguments concerning the Royal Mail transition.
542	Mere fact of friendly communication from a client setting up lunch meetings with State Street personnel shows client was happy with State Street.
544	Mere fact of Mr. Boomgaardt's explanation is relevant to explain Mr. McLellan's subsequent actions (regardless of its truth).
548	Mr. Pennings telling Mr. McLellan that Royal Mail knew State Street was taking money elsewhere is relevant to his state of mind during alleged concealment, which the Government expressly asserts lasted through September.
549	Mere fact of Mr. McLellan communicating on Project Eagle during relevant timeframe is relevant.
550	Mere fact of open communication with Mr. Puth and Mr. Woodard about these issues relevant.
553	Admissible pursuant to Fed. R. Evid. 1006.
556	Not hearsay. Not relevant for truth of any matters asserted but for the simple fact of Mr. McLellan providing the accurate numbers.

Respectfully submitted,

Ross McLellan
By his Attorney,

/s/ Martin G. Weinberg
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Dated: June 20, 2018

CERTIFICATE OF SERVICE

I, Martin G. Weinberg, hereby certify that on this date, June 20, 2018, a copy of the foregoing documents has been served via Electronic Court Filing system on all registered participants.

/s/ Martin G. Weinberg
Martin G. Weinberg

